

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

MARKET DOMINANT PRODUCT PRICES
INBOUND MARKET DOMINANT MULTI-SERVICE AGREEMENTS
WITH FOREIGN POSTAL OPERATORS
CHINA POST GROUP - UNITED STATES POSTAL SERVICE
MULTI-PRODUCT BILATERAL AGREEMENT (MC2010-35)
NEGOTIATED SERVICE AGREEMENT

R2013-2

COMPETITIVE PRODUCT PRICES
INBOUND COMPETITIVE MULTI-SERVICE AGREEMENTS WITH
FOREIGN POSTAL OPERATORS
CHINA POST GROUP – UNITED STATES POSTAL SERVICE
MULTI-PRODUCT BILATERAL AGREEMENT (MC2010-34)
NEGOTIATED SERVICE AGREEMENT

CP2013-23

**RESPONSE TO POSTAL REGULATORY COMMISSION
ORDER NOS. 1591 AND 1598 REGARDING ANNEX 6 TO
THE CHINA POST GROUP – UNITED STATES POSTAL SERVICE
MULTI-PRODUCT BILATERAL NEGOTIATED SERVICE AGREEMENT
(January 18, 2013)**

The United States Postal Service (Postal Service) hereby files its response to Postal Regulatory Commission (Commission) Order No. 1591 and Order No. 1598. The orders requested that the Postal Service file in the respective dockets, a further explanation of the need to maintain the Business Rules in Annex 6 of the Agreement under seal or a replacement for Annex 6 in accordance with the terms of the Order.¹ The Postal Service believes that Annex 6 of the Agreement should remain under seal for the reasons explained herein.²

¹ PRC Order No. 1591, Order Approving an Additional Inbound Competitive Multi-Service Agreements with Foreign Operators 1 Negotiated Service Agreement (with China Post Group), Docket No. CP2013-23, Dec 21, 2012, at 9; PRC Order No. 1598, Order Approving an Additional Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement (with China Post Group), Docket No. R2013-2, Dec. 28, 2012, at 9.

² In PRC Order No. 1598, the Commission requested that the Postal Service distinguish, if necessary, the need for non-public treatment for market dominant services at issue here. Order No. 1598 at 8. The Postal Service's justification for non-public treatment provided herein is equally applicable to the market dominant and competitive portions of the Agreement and Annex 6.

Specifically, in addition to the reasons provided in the Applications of the United States Postal Service for Non-Public Treatment of Materials, filed as (1) Attachment 4 to the Postal Service's original Notice in Docket No. CP2013-23; and (2) Attachment 1 to the Postal Service's original Notice in Docket No. R2013-2, the Postal Service provides in an attachment a supplemental justification for non-public treatment of Annex 6 in accordance with 39 C.F.R. § 3007.21 and Order No. 225.³

The Postal Service accordingly requests that the Commission continue to protect the information filed under seal in these dockets.

Respectfully submitted,

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³ PRC Order No. 225, Final Rule Establishing Appropriate Confidentiality Procedures, Docket No. RM2008-1, June 19, 2009.

Attachment: Supplemental Application for Nonpublic Treatment

(1) The rationale for claiming that the materials are non-public, including the specific statutory basis for the claim, and a statement justifying application of the provision(s);

See the rationale provided in the Applications of the United States Postal Service for Non-Public Treatment of Materials, filed as (1) Attachment 4 to the Postal Service's original Notice in Docket No. CP2013-23; and (2) Attachment 1 to the Postal Service's original Notice in Docket No. R2013-2.

(2) Identification, including name, phone number, and e-mail address for any third party who is known to have a proprietary interest in the materials, or if such an identification is sensitive, contact information for a Postal Service employee who shall provide notice to that third party;

See the information provided in the Applications of the United States Postal Service for Non-Public Treatment of Materials, filed as (1) Attachment 4 to the Postal Service's original Notice in Docket No. CP2013-23; and (2) Attachment 1 to the Postal Service's original Notice in Docket No. R2013-2.

(3) A description of the materials claimed to be non-public in a manner that, without revealing the materials at issue, would allow a person to thoroughly evaluate the basis for the claim that they are non-public;

The Postal Service maintains that the redacted portions of Annex 6 to the Agreement should remain confidential. The redactions protect specific operational procedures individually negotiated with the foreign postal operator, such as settlement, audit, and invoicing procedures, which would not be publicly disclosed under good business practices.

(4) Particular identification of the nature and extent of commercial harm alleged and the likelihood of such harm;

If Annex 6 to the Agreement were to be disclosed publicly, the Postal Service considers that it is quite likely that it would suffer commercial harm. The redactions cover specific operational procedures individually negotiated with and customized for the foreign postal operator. These procedures do not necessarily reflect the regular or preferred operational procedures of the Postal Service, but rather reflect the operational procedures reached as a result of negotiation with the foreign postal operator. These business rules are further based on the Postal Service's operational history with the foreign postal operator.⁴ Other foreign postal operators or other potential customers could use the information to their advantage in negotiating the terms of their own agreements and operational procedures with the Postal Service, which may be contrary to the Postal Service's interests in its dealings with other operators. The Postal Service considers these to be highly probable outcomes that would result from public disclosure of the redacted material.

(5) At least one specific hypothetical, illustrative example of each alleged harm;

Harm: Public disclosure of the Business Rules that constitute Annex 6 to the Agreement would provide foreign postal operators or other potential customers negotiating power to compel the Postal Service to agree to potentially onerous business rules and operating procedures when negotiating the terms of their own agreements with the Postal Service.

⁴ The Public Representative asserts that the Business Rules are not commercially sensitive because they do "not include any information related to rates, volumes, costs or revenues" and appear to be "of a purely operational nature." Public Representative Comments, Docket No. CP2013-23, Dec 12, 2012, at 9. The operational nature of the Business Rules does not necessitate a conclusion that they are not commercially sensitive and would not be publicly disclosed under good business practices. In fact, that the Business Rules have been negotiated with and customized for the specific postal operator indicates that they are commercially sensitive, despite not containing rate, volume, cost, or revenue information.

Hypothetical: Annex 6 is disclosed publicly on the Postal Regulatory Commission's website. Another postal operator sees the negotiated business rules. The other postal operator, which was offered different business rules, then uses the publicly available negotiated business rules in Annex 6 to insist that it must receive business rules that impose a greater administrative and operational burden on the Postal Service.

(6) The extent of protection from public disclosure deemed to be necessary;

See the description provided in the Applications of the United States Postal Service for Non-Public Treatment of Materials, filed as (1) Attachment 4 to the Postal Service's original Notice in Docket No. CP2013-23; and (2) Attachment 1 to the Postal Service's original Notice in Docket No. R2013-2.

(7) The length of time deemed necessary for the non-public materials to be protected from public disclosure with justification thereof; and

The Commission's regulations provide that non-public materials shall lose non-public status ten years after the date of filing with the Commission, unless the Commission or its authorized representative enters an order extending the duration of that status. 39 C.F.R. § 3007.30.

(8) Any other factors or reasons relevant to support the application.

None.

Conclusion

For the reasons discussed, the Postal Service asks that the Commission grant its application for non-public treatment of Annex 6 to the Agreement.